2005 Review Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons

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Article III and preambular paragraphs 4 and 5, especially in their relationship to article IV and preambular paragraphs 6 and 7 [Compliance and Verification]

Working paper for submission to Main Committee II by Australia, Austria, Canada, Denmark, Hungary, Ireland, the Netherlands, New Zealand, Norway and Sweden

1. The Conference stresses the important contribution of the Treaty on the Non-Proliferation of Nuclear Weapons (NPT) to worldwide security and its undoubted effectiveness in checking nuclear proliferation, and thus preventing the destabilization caused by nuclear arms races. The Conference underlines the importance of all States parties demonstrating strong commitment to the Treaty, not least in the face of the recent revelations of non-compliance.

2. The Conference expresses the understanding that the Treaty confers a set of interrelated and mutually reinforcing obligations and rights on States parties. Accountability is a key element of the Treaty regime, which can be made stronger and more transparent through adherence by all States parties to the strengthened safeguards system pursuant to article III of the Treaty, in order to provide assurances of compliance with article II. The Conference notes that meeting current and potential compliance challenges are key tasks for the NPT strengthened review process. These challenges pose a significant test for the Treaty, and need to be met firmly by upholding the Treaty's integrity and reinforcing the authority of the safeguards system of the International Atomic Energy Agency (IAEA). The Conference notes that intense international concern about nuclear weapons proliferation, including potentially to non-State actors, has added to the importance of the Treaty-based nuclear non-proliferation regime.

3. The Conference affirms the fundamental importance of full compliance with all the provisions of the Treaty, including with relevant Safeguards Agreements and relevant subsidiary arrangements. It notes that the integrity of the Treaty depends upon full respect by States parties for their obligations under the Treaty and deriving from the Treaty. The Conference reaffirms the statutory role of the Board of Governors and Director General of IAEA in relation to States' compliance with Safeguards Agreements, and underscores the importance of the Agency's access to

the Security Council and other relevant organs of the United Nations, particularly though not exclusively in cases of non-compliance. In this regard the Conference supports the Secretary-General's encouragement of the Security Council to regularly invite the Director General of IAEA to brief the Council on the status of safeguards and verification processes. The Conference recalls the role of the Security Council, in accordance with the Charter of the United Nations, in maintaining and restoring international peace and security. Noting that the Council, by its resolution 1540 (2004), has reconfirmed that the proliferation of nuclear weapons constitutes a threat to international peace and security, the Conference underscores the mandate of the Security Council to ensure and uphold compliance with the Treaty and with Safeguards Agreements, and to take appropriate measures in cases of non-compliance with the Treaty and with Safeguards Agreements when notified by IAEA of non-compliance.

4. The Conference notes that any State party which does not comply with its obligations under the Treaty isolates itself through its own actions from the benefits of constructive international relationships, and from the benefits which accrue from adherence to the Treaty, including, inter alia, from cooperation in the peaceful uses of nuclear energy, until it returns to full compliance.

5. The Conference reaffirms its conviction that IAEA safeguards provide assurance that States are complying with their non-proliferation undertakings, and provide the mechanism for States to demonstrate this compliance, and in this regard notes that the vast majority of States parties are in compliance with their Treaty obligations. The Conference further reaffirms that IAEA safeguards thereby promote further confidence among States and, being a fundamental element of the Treaty, help to strengthen their collective security and to build the confidence essential for enhanced nuclear cooperation among States. It is the conviction of the Conference that safeguards play a key role in preventing the proliferation of nuclear weapons and other nuclear explosive devices. Accordingly, IAEA safeguards, which play an indispensable role in ensuring the effective implementation of the Treaty, are an important, integral part of the international regime for nuclear non-proliferation.

6. The Conference calls for the universal application of IAEA safeguards in all States parties, in accordance with the provisions of the Treaty. The Conference notes that since the 2000 Review Conference, 15 further Comprehensive Safeguards Agreements pursuant to NPT have been brought into force, but expresses its deep concern that 39 States have yet to fulfil their respective obligations under the Treaty. The Conference therefore urges those States parties which have not yet done so to conclude such agreements. In addition, the Conference calls on all States to submit all their nuclear activities, both current and future, to IAEA safeguards.

7. The Conference notes that in order to draw well-founded safeguards conclusions, IAEA needs to receive early design information in accordance with the IAEA Board of Governors' 1992 interpretation, to determine whenever appropriate the status of any nuclear facilities, and to verify, on an ongoing basis, that all nuclear material in non-nuclear-weapon States is placed under safeguards. The Conference stresses the need for all non-nuclear-weapon States parties to provide this information to the Agency on a timely basis.

8. While recognizing the value of Comprehensive Safeguards Agreements based on IAEA document INFCIRC/153 (Corrected) in verifying the non-diversion of declared nuclear material, the Conference is conscious that such agreements provide

only a limited level of assurance regarding the absence of undeclared material and activities. The Conference therefore considers that it is necessary for Safeguards Agreements based on document INFCIRC/153 (Corrected) to be supplemented by Additional Protocols if IAEA, as the competent authority designated under article III of the Treaty to apply safeguards, is to conclude that there has been no diversion of declared nuclear material and to provide credible assurances that there is no evidence of undeclared nuclear material or activities in a State. The Conference fully endorses the measures contained in the Additional Protocol, noting that implementation of the Additional Protocol will provide increased confidence about a State's compliance with article II of the Treaty.

9. The Conference recalls that paragraph 1 of article III of the Treaty requires each non-nuclear-weapon State to accept safeguards, as set forth in an agreement to be negotiated and concluded with IAEA in accordance with its Statute and the Agency's safeguards system, and recognizes that the Agency's current safeguards system includes both the Comprehensive Safeguards Agreement and the Additional Protocol. Bearing in mind the recommendation by the High-level Panel on Threats, Challenges and Change, endorsed by the Secretary-General, with respect to the Additional Protocol to the IAEA Safeguards Agreement, the Conference affirms that the Comprehensive Safeguards Agreement, together with the Additional Protocol, now represents the verification standard pursuant to paragraph 1 of article III of the Treaty, and considers that States parties should demonstrate strict compliance with this standard in order to fulfil the obligations contained therein.

10. The Conference notes that seven years after the IAEA Board of Governors approved document INFCIRC/540 (Corrected), 90 States have signed Additional Protocols, and that Protocols are in force for 65 States. The Conference urges all States parties which have not yet done so to conclude and to bring into force Additional Protocols as soon as possible in conformity with paragraph 1 of article III of the Treaty. The Conference recognizes the need for IAEA to further facilitate and assist States parties in their working towards the conclusion and entry into force of Safeguards Agreements and Additional Protocols. In this regard the Conference welcomes the efforts of the IAEA secretariat and a number of IAEA member States to implement elements of a plan of action to encourage wider adherence to the safeguards system, including the promotion of universal adherence to the Additional Protocol and the organization of regional seminars.

11. The Conference welcomes the completion of the conceptual framework for integrated safeguards by IAEA, which will usher in a system for verification that is more comprehensive, flexible and effective than current mechanisms. The Conference welcomes the implementation by IAEA of integrated safeguards in six countries, including two with nuclear power plants. Attention needs to be drawn, however, to the fact that States parties must have both Comprehensive Safeguards Agreements and Additional Protocols in place for IAEA to be able to make full use of this improved safeguards system. Implementation of the integrated system can only proceed after Additional Protocols enter into force, and the IAEA is able to draw the safeguards conclusions essential to enable implementation.